

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DAVITT LEWIS SHIRLEY, JR.,
and LISA MARIE SHIRLEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DEBORAH SHIRLEY,

Respondent-Appellant.

UNPUBLISHED

June 14, 2005

No. 258693

Macomb Circuit Court

Family Division

LC No. 03-054099-NA

Before: Bandstra, P.J., and Fitzgerald and Meter, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to her minor children under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not clearly err in determining that the statutory grounds had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). The major issue that brought the minor children into care involved respondent's failure to supervise the minor children. This failed supervision resulted in the minor children being out in the middle of the night, the minor children missing many days of school, and a Families First intervention with no responsiveness from respondent.

The trial court found that respondent made a lot of progress and attempted to comply with the parent-agency agreement. However, she was not able to demonstrate that she had sufficiently benefited from the services and was able to provide a safe, stable, and nurturing home for the minor children. While respondent did complete parenting classes and visited with the minor children, several significant incidences occurred that clearly evidenced respondent's inability to parent the minor children appropriately. Respondent threatened one of the Judson Center workers, who feared for her safety, and Judson terminated services as a result. At the FIA, respondent had difficulty controlling herself in front of the minor children, engaging in inappropriate conversations in front of them. On another occasion, respondent became very angry and "belligerent" in front of the minor children at the Sarah Fisher Agency; respondent thought Davitt had been abused and did not understand that she should have addressed her

concerns outside the presence of the minor children or at least in a calm manner if she felt it necessary to speak in front of the minor children. While respondent testified that she learned from the parenting classes, she was not in any better position to deal with the minor children's issues. This became clear when respondent was asked what she would do if Davitt continued to go out to the park in the middle of the night, and she responded that he did not have mental health issues, that he needed more discipline, and that a youth home was the way to deal with it. Clearly respondent did not understand Davitt's needs for long-term treatment. Respondent did not understand Lisa's special needs either, claiming Lisa had only a reading problem and not acknowledging Lisa's behavioral problems.

Respondent did not understand her own limitations and was still unable to acknowledge that she required assistance, as shown by her refusal to participate in family therapy at Sarah Fisher. Respondent revoked the releases she had signed, so the FIA was unable to determine whether she was compliant with the mental health requirement of the parent agency agreement. In addition to the issues described above, respondent did not have appropriate housing for the minor children because she had lived in a motel for ten months. The court did not clearly err when it found that respondent had fourteen months to find a stable place to live and that this was adequate time if she really wanted to find a place for the minor children to live with her. This was also an adequate amount of time for respondent to show the court she understood her limitations with respect to her parenting abilities and was seeking help in properly parenting the minor children.

Respondent argues that there was no evidence of long-term neglect or serious threat to the future welfare of the minor children. However, respondent was unable to make sure that the minor children were safe in her home at night, instead of being in the park and at friends' homes until two o'clock in the morning. They missed many days of school and their special needs were not attended to. The court did not clearly err when it determined that there was a reasonable likelihood that the minor children would be harmed if returned to respondent, because the evidence showed that respondent would not be able to provide the supervision and care the minor children needed.

Respondent also argues that the FIA did not make reasonable efforts to reunite the family because it did not take into account her disability of mental impairment or give her reasonable accommodations, which would allow her additional time to obtain suitable housing. However, respondent tested with an IQ of ninety, which is in the low normal range. Moreover, respondent completed many aspects of the parent agency agreement, and the trial court commended her for her diligent efforts. Nevertheless, respondent failed to fulfill important requirements. Respondent was unable to supervise appropriately and parent the minor children, did not understand her limitations in this regard, and would not accept assistance. Moreover, respondent lived in a motel and did not have suitable housing. Respondent had adequate time to work on these issues. She completed two sets of parenting classes, but was unable to show the court that she benefited from them or that she would continue to work on and get assistance with her parenting skills. Additional time would not be warranted in this situation. Moreover, respondent lived in a motel for approximately ten months, which was more than adequate time to obtain suitable housing.

The trial court did not clearly err in its best interests determination. MCL 712A.19b(5). While respondent loved the minor children and had made diligent efforts to regain custody of

them, she was unable to demonstrate that the children would be safe if returned to her. The trial court pointed to the fact that, with an unlimited amount of time, respondent may someday have the capacity to be reunited with the minor children; however, the minor children had been in care for over one year, and it was in their best interests that respondent's parental rights be terminated. This determination is not clearly erroneous. *Trejo, supra* at 356-357.

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Patrick M. Meter